

- (a) *A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his official capacity commits a Class A misdemeanor.*
- (b) *A person being arrested, in turn, has no right to use force to resist an arrest by a known police officer, even if the arrest is unlawful. 720 ILCS 5/7-7 (West 2004).*

JURISDICTION AND VENUE

1. This Court has jurisdiction over the action pursuant to the Constitution of the United States of America; United States Civil Rights Act. Venue is proper in this District under 28 U.S.C. 1391, as all or most of the parties reside in this Judicial District, and the events giving rise to the claims asserted herein occurred in this Judicial District. Other Jurisdictions may apply.

BACKGROUND

Ms. Noel was illegal stop/ seized by Officer Bruno Coltri on January 1, 2009. Officer Coltri committed an act of aggravated battery against Ms. Noel and maliciously prosecuted her by charging her with a Felony Aggravated Battery and Resisting Arrest. On April 30, 2010, Ms. Noel was acquitted of the Felony Aggravated Battery at Bench trial by Judge Thomas Tucker, yet was convicted of Resisting Arrest. Ms. Noel immediately entered an appeal. On July 28, 2012, the Appellate Court of Illinois 1st District upheld her conviction of Resisting Arrest while ignoring the fact that she had been illegally stopped/ seized. Ms. Noel entered a Prayer for Leave to Appeal as a Matter of Right to the Illinois Supreme Court, which was denied on November 28, 2012. Ms. Noel has exhausted all appellate remedies at the State Level.

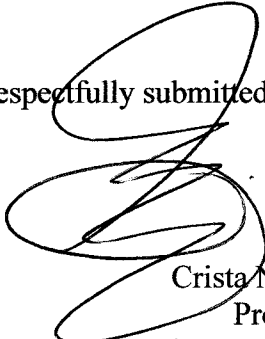
Ms. Noel notes for this Courts consideration that in *People v McCoy* 378 Ill. App. 3d 954 3rd District (2008), Presiding Judge McDade concurring in part and dissenting in part, states;

"In its written decision, the majority discusses extensively what can appropriately be characterized as the "unsettled" nature of the case law on resisting arrest. I agree that the cases are all over the board on what constitutes such resisting: Is talking enough? Does passive uncooperation suffice or is some active force or exertion required? The answers depend not only on the appellate district but, occasionally, on the specific panel or some compassionate tug generated by the defendant's circumstances. This situation necessarily results in uneven justice. I echo the majority's belief that clarification from the Supreme Court is needed in this area of the law."

CONCLUSION

For the foregoing reasons, Crista Noel, defendant, respectfully requests that this Court grant her motion for review, and vacate the State's Judgment against her, and to review and find that the Resisting Arrest Statute, as presently written and upheld in Illinois, violates the Constitutional protections of its citizens.

Respectfully submitted by,


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State of Illinois
County of Cook

Signed and attested before me on 12/27/12 (date) by

Crista Noel (name/s of person/s).


(Signature of Notary Public)

